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SUPREME COURT, U. S

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1971

No. 71-1377

The Ohio Annual Conference of The Methodist Church, an Ohio corporation not for profit, et al., Petitioners,

v.

Bethany Chapel, Inc., an Ohio corporation not for profit, et al., Respondents.

PETITIONERS' REPLY BRIEF

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Respondents' brief well demonstrates why the writ of certiorari should issue.

The recitations of the initial paragraph and a half of respondents' statement of the case (pp. 2-3, Brief of Respondents in Opposition) are unsupported by record references because they are nowhere in the record of this case. Since the decision below was upon demurrer to petitioners' pleading, petitioners have never yet had an opportunity to present their evidence; but respondents recognize by their resort to evidential assertions outside of the record that their position as embraced by the courts below cannot be sustained upon the basis of the record. Hence, petitioners have been denied due process of law.

Reduced to its simplest form, respondents basic contention is that, whenever the word "church" appears in litigation, the civil courts must refrain from proceeding further. This is neither the law nor what the law should be nor what the constitution permits. Both due process and equal protection entitle petitioners and other church officials and groups to more from the civil courts.

First Amendment foreclosure of civil court consideration of matters affecting the Serbian Orthodox Church, shown by evidence to have an unusual

structure, is quite different from curtaining off from civil court consideration property disputes affecting the United Methodist Church, whose governing body and property control rules are set forth plainly without question in the record. An implied trust doctrine dependent upon tenets of religious faith is in sharp contrast to express trusts created upon conveyances of properties to trustees under terms then set forth in a written Discipline subsequently modified and reaffirmed. Consequently, the legal authorities to which respondents refer are not conclusive in this case; and the applicable law requires enunciation.

A writ of certiorari should therefore issue to review the judgment below.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Three (3) copies each of the foregoing reply brief have been deposited in the mail with first class postage prepaid this 25th day of May, 1972, to Dan H. McCullough and George S. Taylor, attorneys for respondents herein, at their offices at 700 Security Building, Toledo, Ohio 43604, and 3433 Upton Avenue, Toledo, Ohio 43613, respectively.

s/ TLDalrymple
Thomas L. Dalrymple,
an Attorney for
Petitioners